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JUN 22 2009 LK

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK RABY,

Plaintiff,

v.

ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
Illinois Limited Partnership,

Defendant.

) No. C 09-0863 JF

) DECLARATION OF KURT STAROVICH



09-CV-00863-DECL

I, Kurt Starovich, declare as follows:

1. I am the Vice President of Finance and Administration for Defendant Onsrud Cutter, LP ("Onsrud Cutter"). I am over the age of 18 and otherwise competent to testify. I make this declaration in good faith, based on my personal knowledge and on records regularly maintained by Onsrud Cutter in the ordinary course of business.

2. Onsrud Cutter is a Limited Partnership, with its headquarters and principal place of business in Libertyville, Illinois.

3. The general partner for Onsrud Cutter is Onsrud, Incorporated, a Delaware corporation with its principal place of business in Libertyville, Illinois.

4. The limited partner for Onsrud Cutter is Leitz Metalworking Technology GmbH & CO. KG, a German Corporation with its headquarters and principal place of business in Oberkochen, Germany.

DECLARATION OF KURT STAROVICH - 1  
(09-2-05263-6)

Jackson Lewis LLP  
One Union Square  
600 University Street, Suite 2900  
Seattle, Washington 98101  
(206) 405-0404

ORIGINAL

1       5. On May 22, 2009, Onsrud Cutter, through its counsel, received a letter from Joel  
2 P. Nichols, dated May 19, 2009. The letter from Mr. Nichols included a copy of Summon and  
3 Complaint relating to an action that was commenced by Mark Raby in Snohomish County  
4 Superior Court against Onsrud Cutter, designated Case Number No. 09-2-05263-6A. Attached  
5 as Exhibit A is a true and correct copy of the letter from Mr. Nichols dated May 19, 2009.

6 I declare under penalty of perjury under the laws of the United States that the foregoing is  
7 true and correct.

8 | Signed this 18th day of June, 2009 at Libertyville, Illinois.

  
Kurt Starovich

10 | 10/10

Karl Starovich

12 || Page

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16 | P a g e

For more information about the study, please contact Dr. Michael J. Hwang at (310) 206-6500 or via email at [mhwang@ucla.edu](mailto:mhwang@ucla.edu).

[View Details](#) | [Edit](#) | [Delete](#)

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**DECLARATION OF KURT STAROVICH - 2  
(09-2-05263-6)**

**Jackson Lewis LLP**  
One Union Square  
600 University Street, Suite 2900  
Seattle, Washington 98101  
(206) 405-0404

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2                   **DECLARATION OF SERVICE**  
3

4                   The undersigned declares under penalty of perjury under the laws of the State of  
5 Washington that a true and accurate copy of the document to which this declaration is affixed  
6 was sent via hand delivery, on this day, to:  
7

8                   Joel P. Nichols  
9                   Deno Millikan Law Firm, PLLC  
10                  3411 Colby Avenue  
11                  Everett, WA 98201  
12                  Tel: 425-259-2222  
13                  Fax: 425-259-2033

14                  Dated this 22nd day of June, 2009, at Seattle, Washington.

15                    
16                  Andrea W. Preston

# EXHIBIT A

Kent Millikan  
Brian C. Dale  
Stephanie N. Petersen  
Joel P. Nichols



DENO MILLIKAN LAW FIRM PLLC

Jennifer C. Gogert  
James A. Pautler  
Kristian E. Soholm  
*Of counsel*  
James E. Deno

May 19, 2009

Matthew D. Lahey  
Schiff Hardin LLP  
6600 Sears Tower  
Chicago, IL 60606

Re: *Mark Raby v. Onsrud Cutter, LP*

Dear Mr. Lahey:

Enclosed is a Summons and Complaint for Breach of Contract or Misrepresentation, Wrongfully Withheld Wages, and Other Relief which has been filed in the Snohomish County Superior Court under cause number 09-2-05263-6. Also enclosed is an Acceptance of Service. If you will accept service on behalf of Onsrud Cutter, please sign the document and return it to me for filing with the court. Otherwise, we will serve Onsrud Cutter directly.

Sincerely,

DENO MILLIKAN LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'JOEL P. NICHOLS'.

JOEL P. NICHOLS

JPN\kea  
Enclosures

cc: Client

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

8 MARK RABY,

9 Plaintiff,

No. 09-2-05263-6

10 vs.

ACCEPTANCE OF SERVICE

11 ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
12 Illinois Limited Partnership,

13 Defendant.

14 The undersigned, MATTHEW D. LAHEY of SCHIFF HARDIN LLP, hereby  
15 acknowledges that he is the Attorney for Defendant ONSRUD CUTTER, LP, d/b/a  
16 ONSRUD, an Illinois Limited Partnership, in the above captioned action, and does hereby  
17 acknowledge receipt and accepts service of the Summons and Complaint on behalf of the  
18 defendant herein.

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ACCEPTANCE OF SERVICE– Page 1

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

1 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

2 SCHIFF HARDIN LLP

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**MATTHEW D. LAHEY**  
5 Attorneys for Defendant Onsrud Cutter, LP

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ACCEPTANCE OF SERVICE- Page 2

**DENO MILLIKAN LAW FIRM, PLLC**  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

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2                   **FILED**  
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4                   MAY 15 2009  
5

SONYA KRASER  
COUNTY CLERK  
SNOHOMISH CO. WASH.

6                   IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7                   IN AND FOR THE COUNTY OF SNOHOMISH

8                   MARK RABY,

09 2 05263 6

9                   No. \_\_\_\_\_

10                  Plaintiff,

SUMMONS

11                  vs.

12                  ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
Illinois Limited Partnership,

13                  Defendant.

14

15                  TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court  
by the above named plaintiff. Plaintiff's claim is stated in the written complaint, a copy of  
16                  which is served upon you with this summons.  
17

18                  In order to defend against this lawsuit, you must respond to the complaint by stating your  
defense in writing, and serve a copy upon the undersigned attorney for the plaintiff within  
19                  20 days after service, or within 60 days after the service of this summons if served outside  
the state of Washington, excluding the day of service, or a default judgment may be entered  
against you without notice. A default judgment is one where the plaintiff is entitled to  
what he asks for because you have not responded. If you serve a notice of appearance on  
20                  the undersigned attorney, you are entitled to notice before a default judgment may be  
entered.  
21

SUMMONS- Page 1

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

COPY

1 You may demand that the plaintiff file this lawsuit with the court. If you do so, the  
2 demand must be in writing and must be served upon the plaintiff. Within 14 days after you  
3 serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of  
this summons and complaint will be void. If you wish to seek the advice of an attorney in  
this matter, you should do so promptly so that your written response, if any, may be served  
on time.

4 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of  
5 Washington.

6 DATED this 14 day of May, 2009.

7 DENO MILLIKAN LAW FIRM, PLLC

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9 JOEL P. NICHOLS, WSBA #23353  
10 Attorney for Plaintiff Mark Raby

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SUMMONS– Page 2

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

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**FILED**  
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MAY 15 2009

SONYA KRASHI  
COUNTY CLERK  
SNOHOMISH CO. WASH.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

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MARK RABY,

Plaintiff,

No. 09 2 05263 6

9  
vs.  
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ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
Illinois Limited Partnership,

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Defendant.  
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COMPLAINT FOR BREACH OF  
CONTRACT OR  
MISREPRESENTATION,  
WRONGFULLY WITHHELD  
WAGES. AND OTHER RELIEF

Plaintiff, Mark Raby, by and through his attorney, Joel P. Nichols of DENO MILLIKAN LAW FIRM, PLLC, by way of Complaint for Breach of Contract, Negligent Misrepresentation, Wrongfully Withheld Wages, and Other Relief, alleges as follows:

I. PARTIES, JURISDICTION AND VENUE

1.1 Plaintiff Mark Raby is a resident of Snohomish County, Washington.

1.2 Defendant Onsrud Cutter, LP, d/b/a Onsrud, on information and belief, is an Illinois Limited Partnership licensed to do business in the State of Washington, and conducted business in Snohomish County, Washington at all times material hereto.

COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF – Page 1

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

COPY

1.3 Jurisdiction and Venue: Jurisdiction and venue are appropriate with this court, and all events occurred within Everett, Snohomish County, Washington.

## II. OPERATIVE FACTS

2.1 From March 19, 2008 through March 10, 2009, Plaintiff worked for Defendant as a salesman under a written agreement in which Defendant guaranteed him a base salary and commission totaling \$95,000.00 per year for 2008 and 2009.

2.2 In January 2009, Defendant unilaterally cut Plaintiff's pay in half without notice. When Plaintiff questioned this action, Defendant explained it interpreted the contractual language to allow Defendant to modify the percentages of compensation it designated as salary and commission, provided those amounts totaled \$95,000 for 2009. Defendant then made a modified offer to Plaintiff of compensation for 2009, still guaranteeing a portion of salary and commission. Believing he had no choice but to accept Defendant's modification of the contract, Plaintiff accepted the modified offer of employment for 2009.

2.3. On March 10, 2009, Defendant immediately discharged Plaintiff from his employment without cause.

2.4 Defendant's offers, and Plaintiff's acceptance of those offers, formed bilateral contracts that could not be terminated at will.

2.5 Plaintiff reasonably relied, to his detriment, on Defendant's guarantees that he would be paid salary and commission through the end of 2009.

**COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF– Page 2**

**DENO MILLIKAN LAW FIRM, PLLC**  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

1                   **III. FIRST CAUSE OF ACTION – BREACH OF CONTRACT**

2                 3.1 Plaintiff realleges paragraphs 1.1 through 2.5 as if fully stated herein.  
3                 3.2 Defendant breached its contract with Plaintiff, both by failing to pay him as  
4                 agreed upon and by terminating his employment, causing Plaintiff to suffer damages in an  
5                 amount to be proven at trial.

6                   **IV. SECOND CAUSE OF ACTION – MISREPRESENTATION**

7                 4.1 Plaintiff realleges paragraphs 1.1 through 3.2 as if fully stated herein.  
8                 4.2 In the alternative, Defendant intentionally or negligently misrepresented the  
9                 conditions of Plaintiff's employment, causing Plaintiff to suffer damages in an amount to  
10                 be proven at trial.

11                  **V. THIRD CAUSE OF ACTION – WAGES DUE**

12                 5.1 Plaintiff realleges paragraphs 1.1 through 4.2 as if fully stated herein.  
13                 5.2 Defendant failed to pay wages owed to plaintiff pursuant to Washington  
14                 law, RCW Ch. 49.48 et seq, and RCW Ch. 49.52, et seq. The amount of wages owed to  
15                 plaintiff will be proven at the time of trial herein, is believed to be approximately  
16                 \$74,904.06.

17                 5.3 Defendant's failure to pay Plaintiff wages due was willful, in violation of  
18                 RCW 49.52.050.

19                 ////

20                 ////

21                 COMPLAINT FOR BREACH OF CONTRACT OR  
                       MISREPRESENTATION, WRONGFULLY WITHHELD  
                       WAGES, AND OTHER RELIEF– Page 3

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

## VI. DEMAND

Plaintiff Mark Raby requests that judgment be entered against Defendant as follows:

6.1. Awarding plaintiff special damages for lost wages, benefits and medical expenses in an amount to be established at the time of trial.

6.2. Awarding plaintiff double the amount of wrongfully withheld wages pursuant to RCW 49.52.070.

6.3. Awarding plaintiff actual and reasonable attorney fees and costs incurred in this action whether by contract, equity, or statute, including but not limited to RCW 49.48 et seq. and/or RCW 49.52 et seq.

6.4 Awarding plaintiff any additional or further relief which the court finds appropriate or just, including but not limited to prejudgment interest.

DATED this 14 day of May, 2009.

DENO MILLIKAN LAW FIRM, PLLC

~~JOEL P. NICHOLS, WSBA #23353  
Attorney for Plaintiff Mark Raby~~

**COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF– Page 4**

**DENO MILLIKAN LAW FIRM, PLLC**  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222